

REMARKS/ARGUMENTS

Claims 1-5, 7-12 and 17-20 are pending. By this Amendment, claims 6 and 13-16 are cancelled without prejudice or disclaimer, and claims 1, 4, 8 and 9 are amended. Support for the amendments to claims 1, 4, 8 and 9 can be found, for example, in original claims 1, 4, 6, 8 and 9. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

Rejections Under 35 U.S.C. §103

A. Rodelet

The Office Action rejects claims 1-6 and 8-16 under 35 U.S.C. §103(a) over U.S. Patent No. 6,432,912 to Rodelet ("Rodelet"). By this Amendment, claims 6 and 13-16 are cancelled, rendering the rejection moot as to those claims. As to the remaining claims, Applicant respectfully traverses the rejection.

Claim 1 recites "[a] perfume composition comprising: at least one fragrant material; and a physiologically acceptable carrier, with which the at least one fragrant material is mixed; wherein: the carrier comprises a mixture of polydimethylsiloxanes; the mixture of polydimethylsiloxanes comprises hexamethyldisiloxane and octamethyltrisiloxane; a weight ratio of hexamethyldisiloxane to octamethyltrisiloxane is from 30:70 to 70:30; and the composition does not comprise an ester of a C₄-C₁₀ acid and a C₄-C₁₅ alcohol" (emphasis added). Rodelet does not disclose or suggest such a perfume composition.

As indicated above, claim 1 is directed to a composition that includes a mixture of polydimethylsiloxanes including hexamethyldisiloxane and octamethyltrisiloxane and that is free from esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols. Rodelet is explicitly directed to "an alcohol-free, homogeneous liquid fragrancing composition consisting of a fragrancing base dissolved in a volatile liquid support comprising at least one volatile silicone and at least one

first co-solvent chosen from esters of C₄₋₁₅ alcohols and of C₄₋₁₀ carboxylic acids and, optionally, at least one second co-solvent chosen from certain diesters of oligomeric polyethylene glycol." *See, e.g., Rodelet*, column 1, lines 40 to 52. However, the Office Action asserts that Rodelet suggests compositions that are free of C₄₋₁₅ alcohols and of C₄₋₁₀ carboxylic acids, because Rodelet discloses "[t]hus, when the fragrancing base is relatively apolar, the co-solvent used is one or more esters of C₄₋₁₅ alcohols and of C₄₋₁₀ carboxylic acids." *See* Office Action, page 3; Rodelet, column 2, lines 60 to 62. Applicant respectfully disagrees.

The Office Action reasons from the foregoing passage that, in cases where a polar base is used, Rodelet suggests using esters other than esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols. *See* Office Action, page 3. However, this assertion ignores the fact that Rodelet also suggests the use of non-polar bases. More importantly, the Office Action relies on Rodelet for its disclosure of a non-polar base – e.g., a base including hexamethyldisiloxane or octamethyltrisiloxane. Thus, the Office Action asserts that a skilled artisan would rely on to Rodelet for its disclosure of using hexamethyldisiloxane or octamethyltrisiloxane, but ignore Rodelet's indication that a base including such components should be used in combination with esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols. As is well-settled, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *See* MPEP §2141.02 (citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983)). One of ordinary skill in the art, looking at Rodelet as a whole, would not prepare a perfume composition including a mixture of polydimethylsiloxanes including hexamethyldisiloxane and octamethyltrisiloxane and that is free from esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols – Rodelet teaches away from such a combination of features.

As Rodelet fails to disclose or suggest a perfume composition including a mixture of polydimethylsiloxanes including hexamethyldisiloxane and octamethyltrisiloxane and that is free from esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols, Rodelet does not disclose or suggest each and every feature of claim 1.

As explained, claim 1 would not have been rendered obvious by Rodelet. Claims 2-5 and 8-12 depend from claim 1 and, thus, also would not have been rendered obvious by Rodelet. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B. Rodelet and Krzysik

The Office Action rejects claims 7 and 17-20 under 35 U.S.C. §103(a) over Rodelet in view of U.S. Patent No. 5,160,494 to Krzysik et al. ("Krzysik"). Applicant respectfully traverses the rejection.

For the reasons discussed above, Rodelet does not disclose or suggest each and every feature of claim 1. Krzysik does not remedy the deficiencies of Rodelet. Krzysik is cited for its alleged disclosure of aerosol delivery of perfume compositions. *See* Office Action, page 3. However, Krzysik, like Rodelet fails to disclose or suggest a composition that includes a mixture of polydimethylsiloxanes including hexamethyldisiloxane and octamethyltrisiloxane and that is free from esters of C₄-C₁₀ acids and C₄-C₁₅ alcohols. Accordingly, the combination of references fails to disclose or suggest each and every feature of claim 1.

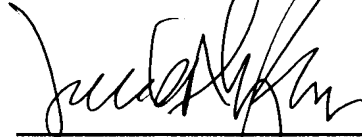
As explained, claim 1 would not have been rendered obvious by Rodelet and Krzysik. Claims 7 and 17-20 depend from claim 1 and, thus, also would not have been rendered obvious by Rodelet and Krzysik. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

For the foregoing reasons, Applicant submits that claims 1-5, 7-12 and 17-20 are in condition for allowance. Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Jacob A. Doughty
Registration No. 46,671